THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 12270 of 2007

Dated: 06.09.2007

Between:

Thota Satyanarayana.

.... PETITIONER

AND

The Depot Manager, A.P.S.R.T.C.,
BHEL Depot, R.R. District and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 12270 of 2007

Order:

This writ petition is filed seeking to declare the action of the 1st respondent in not considering the service of the petitioner for the period from September 2006 to March 2007 as duty, and treating the said period as leave and not making payment of salary, as illegal and arbitrary.

The petitioner was appointed as a Driver in the respondent-Corporation on 14.11.1985. While working as such, during periodic medical examination, the Medical Officer, APSRTC Dispensary, Tarnaka, Hyderabad, declared the petitioner medically unfit to hold the post of A-1 Driver due to defective eye vision, vide his letter, dated 17.10.2006. Again, on 16.11.2006, the petitioner was advised to appear before the Chief Medical Officer, APSRTC Dispensary, Tarnaka, Hyderabad, for re-examination. Accordingly, the petitioner attended before the Medical Board, but the grievance of the petitioner is that till today the result was not announced, and on the other hand, he was not allowed to attend duty and the period from September 2006 to March 2007 was treated as leave and he was not paid any salary, in spite of his making a representation. Hence, he filed the present writ petition.

Even though the respondents filed counter affidavit and additional counter affidavit, the same do not reflect the correct statement of facts. However, on hearing the learned Standing Counsel for the respondent-APSRTC as well as the learned counsel for the petitioner, it came to light that the petitioner was declared medically unfit to hold the post of A-

1 driver by the Headquarters Hospital also. But, the date on which the petitioner was declared as medically unfit, is neither mentioned by the petitioner in the writ affidavit, nor is mentioned by the respondents in the counter affidavit.

However, during the course of arguments, learned Standing Counsel for the respondent-APSRTC produced a copy of office order dated 03.09.2007 showing that the petitioner was provided with alternative employment as Shramik. However, it is the case of the petitioner that though he is expressed his willingness and reported to work on 13.02.2007, the respondents have not allowed him to duty till the present order was passed on 03.09.2007 and the respondents have also not paid him any salary for the said period.

No doubt, the respondents have provided alternative employment to the petitioner on 03.09.2007, but the fact remains before issuing the said appointment order, the respondents neither declared the petitioner medically unfit nor allowed him to duty, and despite the petitioner expressing his willingness to work and also reported to duty on 13.02.2007, the respondents have not taken him to duty till 03.09.2007 till the order providing him alternative employment came to be issued, and as a result of which, the petitioner remained out of employment for the said period and he was also not paid salary, and this fact is also not denied by the learned Standing Counsel for the respondent-APSRTC. In view of that, I deem it appropriate to dispose of the writ petition with the following directions:

The appointment order dated 03.09.2007 issued to the petitioner, providing him alternative employment as Shramik, is placed on record. The respondents are directed to pay salary to the petitioner for the period from 13.02.2007 to 03.09.2007, expeditiously.

Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 06.09.2007
Nsr